

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Arie Braizblot	Team: Team # 2	CCRB Case #: 201211563	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 08/25/2012 8:10 PM	Location of Incident: Herkimer Street and Hunterfly Place	Precinct: 81	18 Mo. SOL 2/25/2014	EO SOL 2/25/2014	
Date/Time CV Reported Sun, 08/26/2012 4:10 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/04/2012 10:03 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Badillo	29211	950038	PBBN
2. POF Emily Harris	20669	941882	081 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Kristin Coscia	29268	950236	PBBN
2. POF Sharon Holmes	05960	951825	PBBN
3. POM Suhail Sofizada	12051	952255	PBBN
4. POM Edgar Gonzalez	00557	917698	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Emily Harris	Abuse: PO Emily Harris threatened § 87(2)(b) with the use of force.	
B.POM Jonathan Badillo	Force: PO Jonathan Badillo used physical force against § 87(2)(b)	
C.POM Jonathan Badillo	Discourtesy: PO Jonathan Badillo spoke discourteously to § 87(2)(b) and § 87(2)(b)	
D. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon her sex.	
E.POF Emily Harris	Force: PO Emily Harris used physical force against § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On August 26, 2012, § 87(2)(b) called the Internal Affairs Bureau (IAB log no. 12-45460) and filed the following complaint.

On August 25, 2012, at approximately 8 p.m., officers from the 81st Precinct arrested § 87(2)(b)'s three children, § 87(2)(b) and § 87(2)(b) at Herkimer Street and Hunterfly Place in Brooklyn. The following allegations resulted from the incident:

- **Allegation A - Abuse of Authority: PO Emily Harris threatened § 87(2)(b) with the use of force.**
- **Allegation B - Force: PO Jonathan Badillo used physical force against § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- **Allegation C - Discourtesy: PO Jonathan Badillo spoke discourteously to § 87(2)(b) and § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- **Allegation D – Offensive Language: An officer made remarks to § 87(2)(b) based upon her sex.**
§ 87(2)(b), § 87(2)(g)
- **Allegation E - Force: PO Emily Harris used physical force against § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- § 87(2)(g), § 87(4-b)

Results of Investigation

Civilian Statements

Victim: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b)

Arrest Photograph (encl. 12)

§ 87(2)(b)'s arrest photograph reveals no visible injuries.

CCRB Testimony

On September 10, 2012, § 87(2)(b) provided a telephone statement to the CCRB (encl. 13). § 87(2)(b) was interviewed at the CCRB on September 25, 2012 (encl. 15A-C). His testimony is summarized below with all discrepancies noted.

On August 25, 2012, at approximately 8 p.m., § 87(2)(b) exited 18 Hunterfly Place in Brooklyn and heard a gunshot. Soon after, a fight erupted between two unidentified men, identified by the

investigation as § 87(2)(b) and § 87(2)(b) at Herkimer Street and Hunterfly Place. § 87(2)(b) was arrested prior to the fight and had no involvement in the incident. § 87(2)(b) stood between the two men and officers approached the brawl. § 87(2)(b) claimed that he retreated as officers approached but later stated that he was on top of an individual in the fight when they arrived. An unidentified officer pulled § 87(2)(b) away from the fight by his leg. § 87(2)(b) stood up and faced five officers. PO1, identified by the investigation as PO Jonathan Badillo, was described as a 5'6" tall Hispanic man with a light complexion, muscular build, bald, in his late twenties or early thirties, who wore a turquoise t-shirt, shorts and sneakers. PO2, identified by the investigation as PO Emily Harris, was described as a 5'4" tall, black woman in uniform, light complexion with short dreadlocks, muscular build, in her late twenties or early thirties. PO3, PO4 and PO5 remain unidentified.

PO Badillo, PO3, PO4 and PO5 placed their hands on § 87(2)(b)'s arms and waist, pulled his arms in separate directions and held him. (In his telephone statement, § 87(2)(b) alleged that officers pushed him back and forth several times.) § 87(2)(b) raised his hands and PO Harris threw a punch at him. § 87(2)(b) ducked, grabbed PO3, PO4, or PO5 to maintain his equilibrium, raised his hands and started to kneel down. § 87(2)(b) told PO Badillo that he did not want to go to the ground because there was a storm drain below him. PO Badillo pushed § 87(2)(b) down and ordered him to get the "fuck" on the ground. The right side of § 87(2)(b)'s face landed on the ground and he felt a scab and swelling under his right eye. (In his telephone statement, § 87(2)(b) stated that he lied down voluntarily.) PO Badillo put his knee on § 87(2)(b)'s back, instructed him to place his hands behind his back and ordered him not to "fucking" move and § 87(2)(b) complied. § 87(2)(b) approached and told PO Badillo that § 87(2)(b) was trying to break up the brawl. PO6, a white man in uniform who remains unidentified, grabbed § 87(2)(b)'s throat with one hand, her waist with the other and pushed her toward PO Harris, who pulled her away.

PO Badillo handcuffed § 87(2)(b) kned him in the groin twice from behind and told him to "shut the fuck up", though § 87(2)(b) did not make any statements. § 87(2)(b)'s friend, § 87(2)(b) stood nearby and asked PO Badillo why it was necessary to hit § 87(2)(b) twice. PO Badillo then dragged § 87(2)(b) away from the storm drain by his legs, resulting in a scrape and bruise to his right knee. PO Badillo stood § 87(2)(b) up and removed his shirt. PO3 then placed him inside a patrol car.

At the stationhouse, prisoners inquired about the injuries to § 87(2)(b)'s eye and he responded that the officers caused the wound. § 87(2)(b) was transported to Brooklyn Central Booking and released the following day. On that date, § 87(2)(b) went to the hospital and had x-rays performed on his knee, which were returned as negative. § 87(2)(b) was not treated for the scratch to his eye. § 87(2)(b) did not cooperate with numerous attempts to complete a HIPAA medical release form and his medical records could not be obtained.

Victim: § 87(2)(b)

- § 87(2)(b) a § 87(2)(b)

CCRB Testimony

On September 10, 2012, § 87(2)(b) provided a telephone statement to the CCRB (encl. 14). § 87(2)(b) was interviewed at the CCRB on September 25, 2012 (encl. 16A-F). § 87(2)(b) corroborated § 87(2)(b)'s testimony with the following discrepancies noted.

§ 87(2)(b) did not observe any interaction between officers and § 87(2)(b) until he was lying face down on the ground. § 87(2)(b) attempted to stand up four times and PO Badillo pushed him back down each time. § 87(2)(b) stood up and faced PO Badillo, who then kned § 87(2)(b) in the groin. § 87(2)(b) fell to the ground and PO Badillo placed his foot on § 87(2)(b)'s back, ripped off § 87(2)(b)'s shirt, put his knee on § 87(2)(b)'s back and pushed his head toward a storm drain. § 87(2)(b)

§ 87(2)(b) lifted his head and informed PO Badillo that he could not breathe and PO Badillo pushed his head back down toward the ground several times. § 87(2)(b) approached PO Badillo, stood between him and § 87(2)(b) and shouted that § 87(2)(b) has “fucking” asthma ten times. § 87(2)(b) lifted her arms, shook them at PO Badillo and said, “Let him the fuck go”. PO Badillo told § 87(2)(b) to “shut the fuck up.” § 87(2)(b) continued to shout and shake her arms at PO Badillo. PO5, who remains unidentified and described as a Hispanic man, 5’8” tall, in his late twenties, light complexion, with black hair and a muscular build, told the officers to “arrest that bitch”, referring to § 87(2)(b) (In her telephone statement, § 87(2)(b) claimed that PO Sofizada said, “Cuff that bitch.”) PO Harris grabbed § 87(2)(b)’s throat and held it for two or three minutes. § 87(2)(b)’s breathing was not restricted. § 87(2)(b) shouted at PO Harris to release her and PO6 and PO7 approached § 87(2)(b) and handcuffed her.

§ 87(2)(b), § 87(2)(a) CVR § 50-b

PO3 and PO4 then escorted § 87(2)(b) to a patrol car. § 87(2)(b) was transported to the stationhouse and released with a summons for disorderly conduct, subsection 7.

Single Photo Viewing (encl. 17A-O)

On April 10, 2013, § 87(2)(b) viewed single photographs of officers assigned to the 81st Precinct who matched the description of the officer who allegedly referred to her as a “bitch”. After viewing the photographs, § 87(2)(b) selected PO Sofizada as the subject officer in this allegation.

§ 87(2)(b) claimed that a neighbor, § 87(2)(b) witnessed and videotaped the incident. § 87(2)(b) did not have § 87(2)(b) contact information, nor did she provide a copy of the footage to the CCRB.

Witness: § 87(2)(b)

- § 87(2)(b) at the time of the incident. His employment information was not available.

Telephone Statement (encl. 18)

§ 87(2)(b) stated that he and § 87(2)(b) attempted to break up a fight and were handcuffed by officers. As soon as the officers approached § 87(2)(b) they handcuffed him and placed him inside a vehicle. § 87(2)(b) did not see any interaction between the officers and § 87(2)(b) or § 87(2)(b). At the stationhouse, § 87(2)(b) was placed in a cell with § 87(2)(b) who did not appear to have any injuries.

Civilian not Interviewed

On September 10, 2012, § 87(2)(b) provided a telephone statement to the CCRB (encl. 11). § 87(2)(b) did not make any allegations of police misconduct, did not witness the incident involving § 87(2)(b) and § 87(2)(b) and was therefore not interviewed. However, § 87(2)(b) complained of a sprain to his wrist from being handcuffed and pain as a result of an officer placing a knee on his back during the arrest process. CCRB spin-off number 201211739 was created and this complaint was referred to the Office of the Chief of Department.

Attempts to Contact Civilians

§ 87(2)(b) stated that her sister, § 87(2)(b) witnessed the incident. On October 22, 2012 and March 11, 2013, two calls were placed to § 87(2)(b) and two voicemail messages were left. On January 22, 2013 and April 3, 2013, two letters were mailed to § 87(2)(b)’s address, which were not

returned to the CCRB. On April 3, 2013, a final call was placed to § 87(2)(b) and her line was temporarily out of service

§ 87(2)(b)

On April 10, 2013 and May 3, 2013, two letters were mailed to § 87(2)(b) address, both of which were returned to the CCRB. On that date, 411 and White Pages searches were negative for § 87(2)(b). On May 6, 2013, Lexis results for § 87(2)(b) did not reveal a phone number but listed a phone number for § 87(2)(b) at § 87(2)(b) address. That day, a call was placed to § 87(2)(b) and she indicated that the undersigned had the wrong number.

§ 87(2)(b)

§ 87(2)(b) did not have a phone number or date of birth for § 87(2)(b) but provided his address as § 87(2)(b). On January 22, 2013, March 11, 2013 and April 3, 2013, letters were mailed to § 87(2)(b) that were not returned to the CCRB. A Lexis-Nexis search did not list § 87(2)(b) at § 87(2)(b). A DMV search revealed a mailing address, which was in the proximity of the incident location, for § 87(2)(b). A letter mailed to that address was not returned to the CCRB. To date, § 87(2)(b) has not contacted the CCRB.

§ 87(2)(b)

§ 87(2)(b) and § 87(2)(b) did not have a phone number for § 87(2)(b). On May 6, 2013, a letter was mailed to § 87(2)(b)'s address but was returned as, "No such number".

NYPD Statements:

Subject Officer: PO JONATHAN BADILLO

- *PO Badillo, a § 87(2)(b) at the time of the incident.*
- *On August 25, 2012, PO Badillo worked from 7:30 p.m. on August 25, 2012 to 4:05 a.m. the next morning and was assigned to Impact Auto. PO Badillo was dressed in uniform and worked with PO Daniel Kim in a marked van, number 5446.*

Memo Book (encl. 19A-C)

At 8:05 p.m., PO Badillo received a radio call reporting shots fired at 771 Herkimer Street. PO Badillo arrived at the location at 8:09 p.m. At 8:20 p.m., one individual was arrested for resisting arrest and disorderly conduct in the vicinity of Herkimer Street and Hunterfly Place. At 8:25 p.m., PO Badillo arrived at the stationhouse. At 10:30 p.m., online booking was completed. At 11:45 p.m., § 87(2)(b) was fingerprinted and his photograph was taken. At 1:30 a.m., papers were faxed to the online arrest processing system.

Arrest Report (encl. 19F-G) and Complaint Report (encl. 19D-E)

The complaint report and arrest report prepared for § 87(2)(b) both read that § 87(2)(b) was involved in a fight and flared (sic) his hands, preventing PO Badillo from handcuffing him. The arrest report acknowledges that force was used to restrain, control and remove § 87(2)(b)'s physical condition was listed as "apparently normal".

CCRB Statement

PO Badillo was interviewed at the CCRB on July 19, 2013 (encl. 19A-J). On August 25, 2012, at approximately 8:05 p.m., PO Badillo and PO Kim received a radio call reporting shots fired at 771 Herkimer Street. Upon arriving, PO Badillo confirmed that one man was shot. PO Kristin Coscia and

numerous uniformed and plainclothes officers were on scene. PO Badillo did not recall seeing PO Emily Harris or PO Suhail Sofizada. Approximately fifty civilians were at the scene.

PO Badillo and PO Kim canvassed the area for the shooter. As PO Badillo and PO Kim approached Herkimer Street and Rochester Avenue, PO Badillo observed a crowd gather at Hunterfly Place and Herkimer Street. Individuals ran toward the intersection and PO Badillo exited his vehicle and sprinted to the location, where he saw § 87(2)(b) and two men, identified by the investigation as § 87(2)(b) and § 87(2)(b) wrestling on the ground. Unidentified uniformed and plainclothes officers were attempting to disperse the crowd. PO Badillo and the officers attempted to handcuff § 87(2)(b) and § 87(2)(b) who were on the ground, and the crowd gathered around the officers. § 87(2)(b) was on the ground when PO Badillo approached and PO Badillo did not push him to the ground or see any officer do so.

Unidentified officers pushed members of the crowd back so that they did not interfere. PO Badillo did not see officers push § 87(2)(b) or pull his arms in opposite directions. § 87(2)(b) and § 87(2)(b) were face down on the ground with their arms wrapped on their chests to avoid being handcuffed. As the officers attempted to gain control of their hands, § 87(2)(b) and § 87(2)(b) flailed their arms away from the officers.

§ 87(2)(b) refused to provide his hands and approximately three officers tried to pull his hands behind his back. PO Badillo did not see any officer swing and miss a punch directed at § 87(2)(b). § 87(2)(b) did not attempt to get up off the ground. PO Badillo and an unidentified officer walked behind § 87(2)(b) but PO Badillo did not recall if he placed a knee on § 87(2)(b)'s back or if his body was pressed against § 87(2)(b). PO Badillo and the unidentified officer struggled to pull § 87(2)(b)'s hands behind his back for one to two minutes. PO Badillo instructed § 87(2)(b) to stop resisting and ordered him to place his hands behind his back but § 87(2)(b) did not comply. PO Badillo did not tell § 87(2)(b) or any female to shut the “fuck” up and did not use any profanity.

PO Badillo did not recall if he pushed § 87(2)(b)'s head to the ground, causing it to hit the ground. PO Badillo and the officer beside him pulled § 87(2)(b)'s arms together and handcuffed him. PO Badillo did not recall using any additional force against § 87(2)(b) and did not knee § 87(2)(b) in the groin. § 87(2)(b) was lifted off the ground and he ceased his resistance. PO Badillo did not recall if a female attempted to intervene on § 87(2)(b)'s behalf. PO Badillo did not hear any officer use the expletive “bitch”. PO Badillo did not see any officer place a hand on a female’s neck or throat.

PO Badillo did not recall if § 87(2)(b) sustained any injuries. PO Badillo walked, but did not drag, § 87(2)(b) to a vehicle and placed him inside. PO Badillo did not recall seeing officers attempt to apprehend any other civilians.

Witness Officer: PO KRISTIN COSCIA

- *PO Coscia, a § 87(2)(b) at the time of the incident.*
- *On August 25, 2012, PO Coscia worked from 7:30 p.m. on August 25, 2012 to 4:05 a.m. the next morning and was assigned to Impact Post 4. PO Coscia was dressed in uniform and worked with PO Gerald Casciola in RMP number 2124.*

Memo Book (encl. 21A-C)

PO Coscia had extensive entries with regard to responding to the shooting and the two summonses issued to § 87(2)(b) and § 87(2)(b).

Criminal Summonses

On August 25, 2012, PO Coscia issued both § 87(2)(b) and § 87(2)(b) summonses for disorderly conduct, subsection 7 (encl. 35 and 20D). The summonses indicate that § 87(2)(b) and

§ 87(2)(b) created a physically dangerous condition by engaging in yelling and fighting with the intent to cause public alarm and inconvenience.

CCRB Statement

PO Coscia was interviewed at the CCRB on July 11, 2013 (encl. 21A-G). PO Coscia confirmed that she responded to the incident. While she affirmed that she approached § 87(2)(b) she denied witnessing any officer use physical force against him or issue him instructions and did not recall any officer using the expletive “fuck” toward him. PO Coscia did not see any officer swing a punch at any civilian.

§ 87(2)(b) pulled two or three officers away from § 87(2)(b) and shouted, “That’s my brother!” The officers swung their arms away from § 87(2)(b) PO Coscia’s attention remained focused on § 87(2)(b)

PO Coscia and two conditions officers, a female, identified by the investigation as PO Harris, and a male, who remains unidentified, and the three officers grabbed § 87(2)(b) by the arms and pulled her away from the other officers. No additional force was used against § 87(2)(b) PO Coscia did not see any officer place a hand on § 87(2)(b)’s throat. PO Coscia did not recall if any officer told § 87(2)(b) to shut the “fuck” up or used any profanity toward her. PO Coscia handcuffed § 87(2)(b) and she was placed in PO Coscia’s patrol car. § 87(2)(b) and § 87(2)(b) did not complain of any injuries. PO Coscia did not see any injuries on § 87(2)(b) or § 87(2)(b)

PO Coscia did not hear any officer refer to § 87(2)(b) as a “bitch”. After § 87(2)(b) was apprehended, PO Coscia did not see officers interact with § 87(2)(b) At the stationhouse, PO Coscia issued § 87(2)(b) a summons.

Subject Officer: PO EMILY HARRIS

- *PO Harris, a § 87(2)(b) at the time of the incident.*
- *On August 25, 2012, PO Harris worked from 5:30 p.m. on August 25, 2012 to 2:05 a.m. the following morning and was assigned to the Conditions Unit. PO Badillo was dressed in uniform and worked with PO Rudy and PO Helmberg in an unmarked vehicle, number 8717.*

Memo Book (encl. 23A-C)

PO Harris did not prepare a memo book entry for this incident.

CCRB Statement

PO Harris was interviewed at the CCRB on August 9, 2013 (encl. 23A-F). PO Harris acknowledged that she responded to the incident with PO Rudy and PO Helmberg.

PO Harris observed officers, including PO Bryan Gosik, struggling to handcuff a male, identified by the investigation as § 87(2)(b) PO Harris approached the officers, who were attempting to place § 87(2)(b)’s hands behind his back. However, § 87(2)(b) flailed his arms.

§ 87(2)(b) pushed the officers and the officers pushed him back while trying to handcuff him. The officers then held onto his wrists but did not do anything further to place him in handcuffs. § 87(2)(b) held onto § 87(2)(b)’s arm, placed her body between him and the officers and pushed the officers away. PO Harris had no further recollection of the physical interaction between § 87(2)(b) and the officers and did not hear an officer use the expletive “fuck” toward § 87(2)(b)

§ 87(2)(b) continued to hold onto § 87(2)(b) preventing the officers from handcuffing him. PO Harris approached, used her weight on § 87(2)(b) to separate him from § 87(2)(b) and pulled § 87(2)(b) away by her forearms. However, PO Harris later stated that she did not know precisely where her hands and body were. § 87(2)(b) complied and was not arrested. PO Harris did not swing a punch at § 87(2)(b) or anyone else. PO Harris did not place her hand on § 87(2)(b)’s throat or

neck and only touched her arms. § 87(2)(b) then walked away voluntarily. PO Gosik and the additional officers handcuffed § 87(2)(b) was then placed inside an officer's vehicle. PO Harris did not recall if anyone else was arrested with § 87(2)(b) PO Harris did not have any further interaction with § 87(2)(b) and did not see any officer use any force other than what she described.

PO Harris did not hear any officer say, "Cuff that bitch", "Arrest that bitch" or "bitch" in reference to § 87(2)(b) PO Harris returned to the crime scene and taped off the scene with other officers. PO Harris did not see injuries on any civilians other than the victim of the shooting.

Witness Officer: PO SUHAIL SOFIZADA

- PO Sofizada, a § 87(2)(b) at the time of the incident.
- On August 25, 2012, PO Sofizada worked from 7:30 p.m. on August 25, 2012 to 4:05 a.m. the next morning and was assigned to Impact Post 11. PO Sofiazda was dressed in uniform and worked alone on foot.

Memo Book (encl. 25A-C)

At 8:05 p.m., PO Sofizada arrived at Impact Post 11. At 8:10 p.m., there was a post change to Herkimer Street and Rochester Avenue for a crime scene. PO Sofizada took meal at 10:30 p.m.

CCRB Statement

PO Sofizada was interviewed at the CCRB on June 12, 2013 (encl. 25A-E). PO Sofizada confirmed that he responded to the incident along with four or four or five unidentified impact officers and guarded the area of the crime scene from pedestrians. Several individuals approached the crime scene and PO Sofizada informed them that they had to walk around. Few civilians were on scene.

A crowd never formed at the scene and there was no interaction between officers and civilians other than preventing them from entering the crime scene. PO Sofizada did not see civilians fighting. PO Sofizada did not see any officer fight or handcuff a civilian. PO Sofizada did not recall seeing any officer have any physical interaction with any civilian. PO Sofizada did not recall whether any officer used force against any civilian. All civilians that interacted with officers on the scene were cooperative.

PO Sofizada stood in the same spot until he took meal at 10:30 p.m. PO Sofizada was provided a brief synopsis of the incident as provided by § 87(2)(b) and § 87(2)(b) and he did not recall the incident. PO Sofizada viewed a photograph of § 87(2)(b) and § 87(2)(b) and did not recognize them. He did not hear any officer tell a civilian to shut the "fuck" up, or use the word "fuck". PO Sofizada did not hear any individual use profanity at any point. PO Sofizada did not say "Cuff that bitch", say the word "bitch" or use any profanity. He did not recall hearing any profanity.

When presented with the criminal summons issued to § 87(2)(b) PO Sofizada stated, "When all this happened I wasn't there". An unidentified Impact officer informed him that there was a fight after the shooting and some individuals were arrested prior to PO Sofizada's arrival to the location.

Witness Officer: PO SHARON HOLMES

- PO Holmes, a § 87(2)(b) at the time of the incident.
- On August 25, 2012, PO Holmes worked from 7:30 p.m. on May 30, 2013 to 4:05 a.m. the next morning and was assigned to Impact Post number 1. PO Holmes was dressed in uniform and worked alone on foot.

Memo Book (encl. 27A-E)

At 8:00 p.m., PO Holmes was present at her Impact post. At 8:20 p.m., PO Holmes arrived at Rochester Avenue and Herkimer Street in response to a level one mobilization. At 10:17 p.m., PO Holmes returned to the stationhouse.

CCRB Statement

PO Holmes was interviewed at the CCRB on June 12, 2013 (encl. 27F-G). PO Holmes corroborated PO Sofizada's statement. He did not hear any officer say, "Shut the fuck up", or use the word "bitch" or "fuck" at any point. PO Holmes did not hear any officer use profanity at the scene.

Additional Officers Interviewed

On August 8, 2013, PO Edgar Gonzalez was interviewed at the CCRB (encl. 29A-D). He stated that, on the date of the incident, he was at the stationhouse and performed administrative duty for his entire tour. PO Gonzalez's memo book entries corroborated his assignment.

NYPD Document

Command Log (encl. 35A-C)

The command log indicates that § 87(2)(b) whose physical condition is listed as normal, was arrested by PO Holmes but no charge is noted. § 87(2)(b)'s condition is also listed as normal. Seven arrests are listed in connection with this incident.

§ 87(2)(b), § 87(2)(a) 160.50

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Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) have not filed a Notice of Claim with the City of New York as of July 19, 2013, more than seven months after the filing deadline, with regard to the incident (encl. 40).

§ 87(2)(b)

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Civilians' CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b)
- § 87(2)(b)

■

Subject Officers' CCRB Histories

- PO Badillo has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 3).
- PO Harris has been a member of the service for seven years and there are no substantiated CCRB allegations against her (encl. 4A-B).

Conclusion

Identification of Subject Officers

- § 87(2)(b) claimed that a black female officer, who later pulled § 87(2)(b) away from him and PO Badillo, threw a punch at him and missed. § 87(2)(b) stated that a black female officer grabbed her throat and held it as she attempted to intervene in § 87(2)(b)'s arrest. PO Harris, a black woman, admitted to grabbing § 87(2)(b) by the arms and removing her from § 87(2)(b) and PO Badillo. Allegations A and E and therefore pleaded to PO Harris.
- § 87(2)(b) claimed that his arresting officer, who asked about his nationality at the stationhouse, used physical force against him, handcuffed him and used profanity toward him. § 87(2)(b) claimed that this officer also used profanity toward her. PO Badillo, who was § 87(2)(b)'s arresting officer, acknowledged that he handcuffed § 87(2)(b) and asked him if he was Hispanic at the stationhouse. Allegations B and C are therefore pleaded to PO Badillo.
- § 87(2)(b) claimed that an officer, who she described as a Hispanic man, 5'8" tall, in his late twenties, light complexion, with black hair and a muscular build, referred to her as a "bitch". In her single photo viewing, § 87(2)(b) selected PO Sofizada, a 6'1" tall, 270-pound Asian man with black hair who was 22 years old at the time of the incident, as the subject officer in this allegation. The description § 87(2)(b) provided varies drastically from PO Sofizada and PO Sofizada did not acknowledge interacting with § 87(2)(b). PO Sofizada responded to the scene on foot, did not witness the arrests and was instructed to secure the crime scene. This is supported by PO Sharon Holmes who was also on foot and assigned to secure the crime scene. There is no evidence that PO Sofizada is the subject officer. Additionally, the single photo viewing may have not fully captured all the officers that may have responded given that this was a shooting and bordering precincts may have gone to aid as would have officers who may not have appeared on the SPRINT. Allegation D is hence pleaded to "An officer".

Investigative Findings and Recommendations

Allegations not Pleaded

§ 87(2)(b) alleged that PO Badillo ripped off § 87(2)(b)'s shirt. Given that § 87(2)(b) did not make this allegation and instead stated that PO Badillo removed his shirt, this allegation was not pleaded.

Allegation A - Abuse of Authority: PO Emily Harris threatened § 87(2)(b) with the use of force.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) claimed that after he was removed from the brawl, PO Harris threw a punch at him with her right hand. § 87(2)(b) stated that he dodged the punch and then knelt down.

PO Harris denied throwing a punch at § 87(2)(b) or any other civilians on the scene but acknowledged that she did place her weight on § 87(2)(b) and pulled § 87(2)(b) away by her forearms. PO Badillo and PO Coscia did not see any officer swing a punch at any civilian.

§ 87(2)(b), § 87(2)(g)

Allegation B - Force: PO Jonathan Badillo used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated PO Badillo pushed § 87(2)(b) down face first, causing him to land on the right side of his face, causing a scab and swelling under his right eye. However, in his telephone statement, § 87(2)(b) stated that he lied down voluntarily. § 87(2)(b) also claimed that PO Badillo placed his knee on his back, handcuffed him, kned him in the groin twice and dragged him on the ground. § 87(2)(b)

§ 87(2)(b) stated that § 87(2)(b) attempted to stand up four times and each time PO Badillo pushed him back down. She claimed that § 87(2)(b) then stood up and faced PO Badillo. § 87(2)(b) stated that PO Badillo then knelt § 87(2)(b) in the groin, placed a knee on § 87(2)(b) back and pushed his head toward a storm drain.

PO Badillo claimed that § 87(2)(b) was face down on the ground when he approached and denied pushing § 87(2)(b) to the ground. PO Badillo pulled § 87(2)(b)'s arms behind his back but did not recall if he used any additional force. PO Badillo denied kneeing § 87(2)(b) in the groin and dragging him on the ground. PO Coscia and PO Harris could not account for the physical interaction between § 87(2)(b) and PO Badillo.

No independent witnesses or video evidence was available in this case to corroborate or unfound § 87(2)(b)'s physical force allegations. Although § 87(2)(b) complained of injuries from the incident, § 87(2)(b)'s arrest photograph shows no visible injuries and he did not cooperate with attempts to sign a medical release form.

§ 87(2)(b), § 87(2)(g)

Allegation C - Discourtesy: PO Jonathan Badillo spoke discourteously to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) claimed that PO Badillo pushed him to the ground and told him to get the “fuck” on the ground after he refused to voluntarily lie down due to a storm drain below him. § 87(2)(b) stated that PO Badillo then told him not to “fucking” move and ordered him to shut the “fuck” up. § 87(2)(b) stated that she shouted at PO Badillo that § 87(2)(b) has “fucking” asthma ten times, shook her arms at PO Badillo and said, “Let him the fuck go”. § 87(2)(b) claimed that PO Badillo then told her to shut the “fuck” up.

PO Badillo denied telling § 87(2)(b) or any female to shut the “fuck” up and stated that he did not use any profanity. PO Coscia did not hear any officer use profanity and PO Harris did not recall if any officer used profanity toward § 87(2)(b) or § 87(2)(b).

An officer may use limited profanity to gain compliance or maintain control during a stressful street encounter. NYPD v. Court, DCT No. 79627/04 (encl. 1A-J).

§ 87(2)(b), § 87(2)(g)

Allegation D – Offensive Language: An officer made remarks to § 87(2)(b) based upon her sex.

As discussed in the subject officer identification section, there was quite a discrepancy between the description provided by § 87(2)(b) of the subject officer, and the officer she identified during a photo viewing as the subject of this allegation. Given the circumstances of the shooting, and the impending

chaos, the investigation was limited in its ability to identify the subject officer. § 87(2)(g)

Allegation E - Force: PO Emily Harris used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) claimed that PO Harris grabbed her throat, held it for two or three minutes, which did not restrict her breathing, and stated that officers then handcuffed her and placed her in a vehicle. § 87(2)(b)

§ 87(2)(b) claimed that an unidentified officer, a white man, grabbed § 87(2)(b)'s throat.

PO Harris denied placing her hand on § 87(2)(b)'s throat or neck and claimed that she touched only § 87(2)(b)'s arms to remove her from the officers attempting to handcuff § 87(2)(b). PO Harris stated that § 87(2)(b) walked away voluntarily and she did not interact with her further. PO Badillo stated that he did not see any officer place a hand on any female's neck or throat. PO Coscia did not see any officer place a hand on § 87(2)(b)'s throat and stated that no additional force was used against her other than officers grabbing her arms and pulling her away.

§ 87(2)(b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: 2

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date